

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

HA

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/518, 554 03/03/00 VROMAN

J AIRPORT .011A

020995 HM42/0904
KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

EXAMINER

WILLIAMSON M

ART UNIT PAPER NUMBER

1616

8

DATE MAILED:

09/04/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)
	09/518,554	VROMAN
Examiner	Group Art Unit	
Williamson	1616	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- Responsive to communication(s) filed on 7/16/01
- This action is **FINAL**.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- Claim(s) 1-24 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- Claim(s) _____ is/are allowed.
- Claim(s) 1-24 is/are rejected.
- Claim(s) _____ is/are objected to.
- Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on _____ is approved disapproved.
- The drawing(s) filed on _____ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All Some* None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) _____.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). 6+7 Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892 Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

Art Unit: 1616

DETAILED ACTION

Pending Claims

The pending claims in the instant application are 1-24. The independent claims are 1, 20 and 23.

Claim Rejections - 35 USC § 102

1. The rejection of claims 1-24 under 35 U.S.C. 102(b) as being anticipated by Kalamazoo Holdings, Inc. (WO 93/00015) is maintained for reasons of record in paper number 4, paragraph 2.

Claim Rejections - 35 USC § 103

2. The rejection of claims 1, 13-16, 18, 20 and 22 under 35 U.S.C. 103(a) as being unpatentable over Kalamazoo Holdings, Inc. (WO 93/00015) is maintained for reasons of record in paper number 4, paragraph 4.

Art Unit: 1616

Response to Arguments

3. Applicant's arguments filed July 166, 2001 have been fully considered but they are not persuasive.

Applicant argues that the prior art does not anticipate or make obvious the instant claimed invention because the prior art teaches amounts of micronized ascorbic acid in the range of 0.001% to 0.05% which is significant less than the instant claimed approximately 25% by weight (see page 2, 4th full paragraph to page 5, 2nd full paragraph). Kalamazoo Holdings, Inc. (WO 93/00015) teaches the addition of micronized ascorbic acid to compositions for the purpose of protection from antioxidation in amounts of 0.001% or more by weight and later cites ranges of 5 to 50% by weight (see page 5, line 15 to page 11, line 3). It is therefore the Examiner's position that the prior art anticipates and/or makes obvious Applicant's instant claimed invention.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 1616

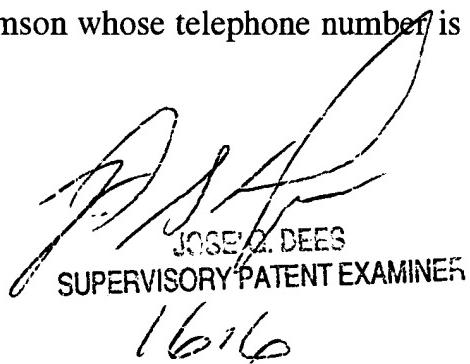
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5.

Crystal Mall 1 Facsimile Center

A facsimile center has been established in Crystal Mall 1, room 7C10. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 308-4556. The new location should be used in all instances when faxing any correspondence to Group 1600. Use of the new Crystal Mall 1 center will facilitate rapid delivery of materials to the Group. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989).

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Michael A. Williamson whose telephone number is (703) 308-1235.



JOSEPH A. DEES
SUPERVISORY PATENT EXAMINER
1616

Williamson010824
August 24, 2001